

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

XIAOHUA HUANG

Plaintiff,

v.

HUAWEI TECHNOLOGIES CO. LTD.,

et al.,

Defendants.

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Case No. 2:16-cv-00947-JRG-RSP

ORDER

The above entitled and numbered civil action was referred to United States Magistrate Judge Roy S. Payne pursuant to 28 U.S.C. § 636. Now before the Court are (1) *pro se* Plaintiff Xiaohua Huang’s Objections (Dkt. No. 74) to Magistrate Judge Payne’s Order (Dkt. No. 64) denying Huang’s motion to transfer and (2) Huang’s Objections (Dkt. No. 76) to Magistrate Judge Payne’s Order and Report and Recommendation (Dkt. No. 65) denying his motion to compel and recommending that Defendant Huawei’s motion for summary judgment be granted under the *res judicata* doctrine.


Huang contends that this case should be transferred to the Northern District of California because this Court, Magistrate Judge Payne, and the Federal Circuit panel all engaged in fraud in Huang’s earlier filed case, *Huang v. Huawei Techs. Co.*, 2:15-cv-1413-JRG-RSP (E.D. Tex. Aug. 14, 2015) (the “earlier filed case”). (Dkt. No. 74). Huang further argues that the grant of summary judgment in the earlier filed case was based on “perjury” committed by Huawei and “fraud” committed by Magistrate Judge Payne. (Dkt. No. 76). Because of such fraud, Huang contends, the summary judgment rendered in the earlier filed was not rendered by a court of competent jurisdiction, rendering the application of the *res judicata* improper. *Id.* Huang also argues that the

seventy accused products in the present case are different in name, model, and function from the seven products alleged in the earlier filed case, indicating that the same cause of action was not involved in the earlier filed case and the case at hand. *Id.*

The Court has considered the objections raised by Huang and finds them to be without merit. All of the arguments raised in the objections were properly considered by the Magistrate Judge. After *de novo* review, this Court finds no error in the Order (Dkt. No. 64) denying Plaintiff's request to transfer this case or the Order and Report and Recommendation (Dkt. No. 65) recommending that Huawei's summary judgment motion be granted.

Accordingly, Huang's Objections (Dkt. Nos. 74 and 75) are **OVERRULED**, the Order and Report and Recommendation (Dkt. No. 65) is hereby **ADOPTED**, and Huawei's motion for summary judgment (Dkt. No. 40) is **GRANTED** in all respects. All pending motions in this matter, with the exception of Huawei's motion for sanctions (Dkt. No. 71), are hereby **DENIED**.

So ORDERED and SIGNED this 18th day of March, 2019.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE